

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2018-202-E

In the Matter of:)	
)	
Petition of Duke Energy Carolinas, LLC)	DUKE ENERGY CAROLINAS, LLC’S, DUKE ENERGY PROGRESS, LLC’S AND SOUTH CAROLINA SOLAR BUSINESS ALLIANCE, INC.’S JOINT REPLY COMMENTS
and Duke Energy Progress, LLC to)	
Extend Limited Waivers of Generator)	
Interconnection Procedures and Planned)	
Issuance of CPRE Tranche 2 Queue)	
Number)	
)	
)	

Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP” and, together with DEC, the “Companies” or “Duke”) and South Carolina Solar Business Alliance, Inc. (“SCSBA”) respectfully submit these Joint Reply Comments to the Public Service Commission of South Carolina (the “Commission”) in support of Duke’s Petition to Extend Limited Waivers of Generator Interconnection Procedures and Planned Issuance of CPRE Tranche 2 Queue Number (“Petition”). These Joint Reply Comments respond to the South Carolina Office of Regulatory Staff’s (“ORS”) Comments (“ORS Comments”) filed on November 4, 2019, and provide additional clarification on the positions of SCSBA set forth in their comments filed on September 9, 2019. SCSBA and Duke herein respond to and seek to clarify (1) the ORS Comments related to: (a) whether the Petition complies with Commission Order No. 2018-803(A) and (b) whether the provisions of Act 62 related to interconnection and competitive procurement for renewable energy impact the Companies’ request for relief; (2) SCSBA’s comments related to interconnection cost certainty; and (3) the Companies’ request to petition the Commission for recovery of Network Upgrade costs for CPRE projects in future general rate cases.

BACKGROUND

On August 30, 2019, the Companies filed a Petition with the Commission to extend the limited waivers of the South Carolina Generator Interconnection Procedures, Forms and Agreements (“SC GIP”) and to allow the Companies to issue a new “CPRE Queue Number” and to perform the “grouping study” for purposes of the upcoming Competitive Procurement of Renewable Energy (“CPRE”) Program “Tranche 2” request for proposal (“RFP”) solicitation (the “Petition”).

On September 9, 2019, SCSBA filed comments with the Commission that were generally supportive of Duke’s Petition but requested that the Commission impose additional reporting conditions to safeguard against discrimination against non-CPRE projects in the allocation of construction resources as well as impose reasonable safeguards on interconnection cost overages for all interconnection customers.¹

On November 4, 2019, ORS filed comments that, in part, raise questions regarding the interpretation of Commission Order No. 2018-803(A) and regarding the relationship between the South Carolina Energy Freedom Act (“Act 62”) and the Companies’ Petition. The Companies’ Petition was scheduled for Commission action at the Commission’s agenda meeting scheduled for November 6, 2019; however, in light of ORS’s Comments and in an effort to generate further consensus among the Companies, ORS and SCSBA, the Companies filed a letter on November 5, 2019, requesting the Commission carry over the matter, which was granted by the Commission on November 6, 2019. In its request to carry over, the Companies committed to providing a report on the status of the discussions by November 15, 2019, which the Companies timely provided on that date.

¹ See SCSBA September 9, 2019 letter at p. 6.

JOINT REPLY COMMENTS

As an initial matter, Duke and SCSBA reiterate their request for the Commission to approve the interconnection waivers requested by Duke to facilitate the participation of utility-scale solar generating facilities in South Carolina (“SC Solar Generators”) in Tranche 2 of the CPRE Program. Duke and SCSBA believe that participation of SC Solar Generators in the CPRE Program is important to future renewable energy development in South Carolina and to ensuring the procurement of the most cost-effective solar generators under the CPRE Program.

I. Reply to ORS’s Comments

ORS’s Comments raise several issues that Duke and SCSBA believe to be the result of confusion regarding the jurisdictional framework of the CPRE Program and the applicability of Act 62 to the Companies’ Petition. Most significantly, ORS requests that the Commission hold in abeyance the Companies’ request for waiver of the interconnection procedures until the Commission addresses certain statutory provisions of Act 62.² The practical effect of granting this request would be to eliminate the opportunity for SC Solar Generators to participate in Tranche 2 of the CPRE Program because unless the proposed waiver is granted, their Upgrade costs could not be fairly evaluated through a consistent grouping study process with NC Solar Generators, which would make it impossible for the bids of South Carolina projects to be evaluated or to be awarded contracts, unless the project has already executed an Interconnection Agreement. Through these Joint Comments, Duke and SCSBA attempt to resolve any remaining confusion regarding these issues such that the Commission may move forward in approving the Companies’ Petition.

² ORS Comments, at 4.

a. Interpretation of Order No. 2018-803(A)

In its comments, ORS states that the Companies' request "may be in contravention to Order No. 2018-803(A)," ³ in which the Commission stated, "Tranche 2 will not be approved without a proceeding before the Commission that defines the program and results in a framework for administering CPRE in South Carolina."⁴ ORS characterizes the Commission's order as effectively "prohibit[ing] the Companies from beginning Tranche 2" of the CPRE Program.⁵

The Companies acknowledge that participation by generators in both North Carolina and South Carolina in a North Carolina-governed competitive solicitation program creates questions of jurisdiction between the two state commissions. As the Companies explained in their Petition, the "framework" for administering the CPRE Program throughout DEC's and DEP's service territories, including the issuance of Tranche 2, is governed by North Carolina statute and has been established by regulations and Orders of the North Carolina Utilities Commission ("NCUC").⁶ Therefore, a regulatory framework for administering the CPRE program in North and South Carolina already exists, although it does not address the one critical component of the program that is under this Commission's jurisdiction: the interconnection process for South Carolina projects that elect to bid into the program, which is the subject of the pending Petition.⁷ The Companies have interpreted the Commission's Order to require the Companies to provide detail to the Commission regarding CPRE Program and the framework for administering the CPRE

³ ORS Comments, at 2.

⁴ Order No. 2018-803(A), at 15.

⁵ ORS Comments, at 2, FN 3.

⁶ Petition at ¶ 3.

⁷ As discussed further below, questions relating to the recovery of costs associated with the power purchase agreements entered into through the CPRE Program, as well as any cost recovery for Upgrades associated with CPRE projects, are also under the jurisdiction of this Commission.

Program, prior the Commission approving future interconnection waivers to enable SC Solar Generators to participate in future CPRE Program RFPs. As stated in the Petition, the Companies provided significant detail to comply with this requirement regarding the CPRE Program, as determined by NC HB 589 and the NCUC's regulations, as well as the NCUC's administration of the CPRE Program and this Commission's administration of the interconnection process that applies to SC Solar Generators that voluntarily bid into the CPRE Program.⁸ The Companies also filed the Tranche 2 RFP solicitation document as Exhibit 3 to the Petition in order to provide the Commission with the full details of the upcoming Tranche 2 RFP. SCSBA and the Companies believe that, in light of the Commission's unique jurisdiction in this matter over the processing of South Carolina state-jurisdictional interconnection requests, the Companies have complied with the Commission's Order and the Commission has an appropriate record to expeditiously consider the relief requested in the Petition.

b. Applicability of Act 62

In its comments, ORS contends that certain provisions of Act 62 "directly impact the Companies' request for relief in this Petition," and requests that the Commission hold in abeyance the section of the Petition on which Act 62 provides guidance until such time as the Commission implements those applicable sections.⁹

While Duke and SCSBA appreciate that Act 62 indeed addresses a number of issues involving renewable energy in this State, the interconnection provisions of Act 62 raised by ORS neither address nor conflict with the relief requested by Duke in its Petition. S.C. Code Ann. § 58-27-460(A)(2) requires the Commission to consider revisions to the interconnection procedures,

⁸ Petition at ¶ 40.

⁹ ORS Comments, at 3-4.

and the subsequent sections within that chapter set forth considerations for the Commission, such as, whether an independent review of interconnection should be performed. *See* S.C. Code Ann. § 58-27-460(E). The Commission has opened several dockets related to the interconnection provisions of Act 62, and SCSBA and Duke anticipate the work in these dockets to begin early next year.¹⁰

However, the limited and temporary waivers requested by the Companies will not resolve any of the issues to be addressed in the interconnection dockets initiated under Act 62, nor will they (if granted) undermine or prejudice any party's ability to fully participate in those proceedings or the Commission's ability to effectively decide the issues raised in those dockets. As explained in the Companies' Petition, the waivers requested are specific to the now-open Tranche 2 of the CPRE Program and would permit South Carolina market participants to participate in the CPRE "grouping study" in the same manner as North Carolina market participants.¹¹ Duke and SCSBA agree that if the Commission were to grant the requested waivers, that decision would have no precedential impact in future proceedings to review the South Carolina Generator Interconnection Procedures. Furthermore, the practical effect of the Commission's denial of the requested waiver, or a significant delay in ruling on the Companies' Petition, would be to prevent SC Solar Generators from being able to participate in Tranche 2 of the CPRE Program.¹² As described in

¹⁰ Over the last several months, Duke, SCSBA, and other stakeholders in DEC's and DEP's South Carolina and North Carolina service territories have been engaged in a series of meetings to discuss potential proposals for interconnection "queue reform" that will, ideally, yield a consensus proposal for interconnection reform that the Commission may consider in the Act 62 interconnection dockets. The Companies have reported on these activities in this docket pursuant to Order No. 2019-247.

¹¹ Petition at ¶ 18.

¹² The only exception would be South Carolina generators that have an executed Interconnection Agreement, which would not need to participate in the Step 2 evaluation process, and therefore would not be impacted by the Commission's decision in this proceeding.

the Companies' Petition, once the "Competitive Tier" of projects is selected, the ranked list of those projects is then delivered to the Evaluation Team to complete the Step 2 interconnection grouping study evaluation of Upgrades under the Independent Administrator's oversight.¹³ Without the requested interconnection waivers, SC Solar Generators cannot participate in the "grouping study" evaluation conducted in Step 2 of the CPRE evaluation process prescribed by the NCUC's regulations.¹⁴ As described above, the Tranche 2 RFP bid window is now open and currently scheduled to close on December 15, 2019. The Step 2 interconnection grouping study evaluation process is scheduled to commence on or about March 1, 2020.

Finally, with regard to S.C. Code Ann. § 58-41-20(E)(2), SCSBA and Duke believe that any future consideration of the Commission to implement a competitive procurement program is unrelated to the Companies' request for waivers of interconnection procedures for the CPRE Program in this docket. If the Commission were to approve the establishment of a competitive procurement program in South Carolina pursuant to S.C. Code Ann. § 58-41-20(E)(2), the implementation and administration of such a program would be fully within the Commission's jurisdiction, subject to any implications of federal law, similar to the NCUC's oversight over the CPRE Program at issue in this proceeding. Moreover, to the extent revisions to the SC Generator Interconnection Procedures would be required to implement a South Carolina-specific procurement program, such revisions would be specific to the details of that program, and likely addressed in the proceedings initiated to address the implementation of a South Carolina competitive procurement program authorized under Act 62.

¹³ Petition at ¶ 11.

¹⁴ NCUC Rule R8-71(f)(3).

c. Bid Price

ORS also recommends that “any avoided costs applied to South Carolina bidders in future Tranches . . . be based on Commission approved avoided costs under Act 62.”¹⁵ For purposes of evaluating the cost effectiveness of CPRE bids, the North Carolina CPRE Program statute provides that “each public utility's procurement obligation shall be capped by the public utility's current forecast of its avoided cost calculated over the term of the power purchase agreement” which “shall be [calculated] consistent with the [NCUC]-approved avoided cost methodology.”¹⁶ Accordingly, the cost effectiveness cap against which market participants must bid, is governed exclusively by North Carolina law and is tied to the NCUC’s methodology for calculating a 20-year avoided cost rate. Notably, while North Carolina law governs the maximum bid price, this Commission certainly has jurisdiction over future cost recovery associated with the power purchase agreements entered into through the CPRE Program. Any such issues would be addressed when the Companies’ seek recovery of cost associated with those PPAs in the annual fuel clause proceeding.

II. Further Clarification of SCSBA Comments

SCSBA’s Comments set forth its general support of Duke’s Petition but requested that the Commission impose certain conditions on any such approval. SCSBA herein updates those comments and renews its request that the Commission expeditiously approve Duke’s Petition. These issues continue to be of concern to SCSBA. However, allowing South Carolina projects to participate in Tranche 2 is of paramount importance, and if consideration of these issues would

¹⁵ ORS Comments, at 5-6.

¹⁶ See N.C. Gen. Stat. § 62-110.8(b)(2).

significantly delay issuance of a decision on the Waiver Request, SCSBA asks that the Commission instead defer consideration of these issues to a later proceeding.¹⁷

In its comments, SCSBA first noted that, as of the date of the submission of its comments, Duke had not included any comparative information about the treatment of CPRE versus non-CPRE projects in the quarterly reports Duke submits pursuant to Order No. 2018-803(A). On November 1, 2019, the Companies filed their third-quarter generator interconnection report with this Commission, providing the information that SBA references in its comments. While SCSBA is still reviewing the information submitted by the Companies, at this time, there appears to be no indication that any non-CPRE projects were disadvantaged by its processing of the CPRE projects. SCSBA also raised concerns about possible discriminatory impacts on non-CPRE customers with regard to allocation of construction resources. However, it is SCSBA's understanding that construction work under Interconnection Agreements for CPRE projects has yet to commence, and so there is as yet no indication yet whether that will be an issue.

SCSBA's Comments also raise questions about interconnection cost overages, and request that the Commission impose reasonable safeguards on future cost overages. SBA continues to believe that this is an issue of great importance that remains unresolved. However, Duke and members of the SBA have committed work together to resolve these issues informally, outside of the context of this proceeding. Given that fact, the importance of allowing SC Solar Generators to participate in CPRE Tranche 2, and the time-sensitive nature of the waiver request, SCSBA agrees that it would be appropriate for the Commission to render a decision on the Companies'

¹⁷ The Companies maintain that the relief SCSBA seeks as it relates to interconnection cost adjustments for all interconnection requests in the Companies' interconnection queues is outside the scope of this proceeding.

Petition without having to resolve this issue now, if resolution of that issue would materially delay a decision.¹⁸

III. Future Cost Recovery

The Companies additionally reiterate their request that they be allowed to petition the Commission for recovery of CPRE Upgrade costs through adjustments to base rates in **future** general rate case proceedings; and further submit that a 25% cap as found appropriate by the NCUC for recovery of actual CPRE grid Upgrades costs as compared to estimated CPRE grid Upgrades costs is reasonable. SCSBA supports this approach and reiterates its concern that uncertainty about the cost of Upgrades makes it impossible for CPRE bidders to accurately reflect the cost of those upgrades in their bids. To be clear, the Companies are not requesting any determination from the Commission with regard to the reasonableness or prudence of any costs at this time. The Companies' request is merely that they have the opportunity to present the question of cost recovery in the future.

CONCLUSION

Wherefore, based on the foregoing and the information presented in the Companies' Petition, Duke Energy Carolinas, LLC, Duke Energy Progress, LLC and South Carolina Solar Business Alliance, Inc. respectfully request that the Commission approve the Petition as presented through these Reply Comments.

Respectfully submitted this 19th day of November 2019.

¹⁸ The Companies, for their part, object to the Commission's consideration of interconnection cost adjustments as it relates to all interconnection requests in the Companies' interconnection queues in this proceeding.



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